

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

No. 2:10-CR-6

v.

Paul L. Maloney
Chief United States District Judge

ERIK MICHAEL SMITH,

Defendant.

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PRELIMINARY ORDER OF FORFEITURE

A. In a Plea Agreement (Docket No. 25), Defendant Erik Michael Smith consented to the forfeiture of his interest in the following property listed in the Forfeiture Allegation of the Indictment:

1. One Dell Dimension 5100 computer, serial number 533VY71;
2. One Western Digital hard drive, serial number WCAV22685198; and
3. One Seagate hard drive, serial number 4LRISMXH, (the "Subject Personal Property").

B. In the Plea Agreement, Defendant further admitted that the Subject Personal Property was used to receive and possess child pornography, in violation of Title 18, United States Code, Section 2252.

C. On June 11, 2010, Defendant pled guilty to Count 1 of the Indictment, charging him with receiving images of minors engaged in sexually explicit conduct in interstate or foreign commerce, in violation of Title 18, United States Code, Section 2252(a)(2) and 2252(b)(1). The Court accepted the guilty plea and adjudicated Defendant guilty.

D. Based on the plea and the Plea Agreement, this Court finds:

1. that the Subject Personal Property was used or intended to be used to commit or promote the commission of violations of Title 18, United States Code, Section 2252(a)(2) and 2252(b)(1);
2. that Defendant had an interest in the Subject Personal Property; and
3. that the Government has established the requisite nexus between the same and the violations of Title 18, United States Code, Section 2252(a)(2) and 2252(b)(1).

Accordingly, **IT IS ORDERED** under Title 18, United States Code, Section 2253, and Rule 32.2 of the Federal Rules of Criminal Procedure, that the Defendant's interest in the Subject Personal Property is forfeited to the United States of America.

IT IS FURTHER ORDERED that the United States Marshals Service seize the Subject Personal Property and dispose of the same in accordance with applicable law and regulations, to include Fed. R. Crim. P. 32.2 regarding protection of third-party rights.

IT IS FURTHER ORDERED that notice of this forfeiture shall be published in accordance with Title 21, United States Code, Section 853(n)(1).

Dated: June 29, 2010

/s/ Paul L. Maloney
PAUL L. MALONEY
Chief United States District Judge